

COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
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MADELINE ACEVEDO CAMACHO, ET AL .

Plaintiffs,

v.

COMMONWEALTH OF PUERTO RICO,
ET AL

Defendants

.
. CASE NO. KAC2007-0214
. RE:
. DECLARATORY JUDGMENT
. .

.....
**JOINT MOTION SUBMITTING STIPULATIONS
OF FACTS ON WHICH THERE IS NO CONTROVERSY, DOCUMENT
AND CONTROVERSIES OF LAW TO BE RESOLVED**

TO THE HONORABLE COURT:

COME NOW the appearing parties represented by the respective undersigned attorneys and very respectfully before this Honorable Court state the following:

INTRODUCTION:

The undersigned attorneys met on different occasions and agreed on the following STIPULATIONS OF FACTS ON WHICH THERE IS NO CONTROVERSY and which are transcribed hereinafter:

**PART I: STIPULATIONS OF FACTS ON WHICH THERE IS NO
CONTROVERSY-FAMILY DEPARTMENT**

1. The plaintiff is integrated by a group of 2,667 employees or former career employees of the Family Department; 27 employees of the Juvenile Institutions Administration and 118 employees of the Vocational Rehabilitation Administration, for a total of 2,812 persons, whose names are identified by agency according to list stipulated by the experts of both parties. Note of the plaintiff: The list is being purified of 22 unidentified employees to disimiss without prejudice and/or remain on a list in which they are not included in the total of 2,812.
2. On November 20, 1985, prior to the entrance into effect in Puerto Rico of the Federal minimum salary, the Director of OCAP, Atty. Guillermo Mojica Maldonado issues a Memorandum regarding: "Salary increase to Public Employees", addressed to the then Governor of Puerto Rico, Hon. Rafael Hernandez Colón.
3. On April 15, 1986, there commenced to govern in the Government of Puerto Rico the Federal Minimum Salary Act, which established a minimum salary of \$3.35 per hour worked and which was equivalent to a salary of \$545.00 a month, for a weekly schedule of 237.5 hrs. and \$581.00 per month, for a schedule of 40 hrs. per week.

4. On April 15, 1986 the Social Services Department, today the Family Department, figured as part of the agencies comprised in the Central Administration, with a Retribution Plan with 39 salary scales and it was developed based on a basic salary of \$442.00 per month for a weekly schedule of 37.5 hours. Of these, the first 9 scales received salaries below the Federal minimum wage that entered into effect.

5. When the Federal Minimum Salary entered into effect on April 15, 1986, the Social Services Department, today the Family Department, adjusted the salaries of the employees assigned to the first 9 scales in the Retribution Plan, to the same salary that the janitor and the worker received, of \$3.35 per hour, equivalent to a basic salary of \$545.00 a month for a schedule of 37.5 hours a week.

6. On April 23, 1986, the Director of OCAP, Atty. Guillermo Mojica Maldonado, issued General Memorandum No. 5-86 addressed to: Messrs. Secretaries of the Government; Agency Heads and Mayors-Personnel System, Re: Applicability of the Federal Minimum Wage to the Public Employees.

7. On June 30, 1986, the Director of OCAP, Atty. Guillermo Mojica Maldonado, issued Memorandum No. 3-86 addressed to: Messrs. Secretaries of the

Government and Agency Heads- Central Administration. Re: Tenth Assignment of Classes of the Career Service of the Central Administration to the salary scales established in Law 89 of July 12, 1979, amended, Uniform Retribution Act."

8. On **April 1, 1990 the minimum salary rose to \$3.55 per hour** equivalent to \$577.00 per month for a work schedule of 37.5 hours a week. When said Federal minimum salary entered into effect, the minimum salary was adjusted to every employee who earned a lower salary. The salaries of the employees in the first 11 scales of the Retribution Plan were adjusted to the same salary that the janitor and the worker received.

9. On June 30, 1990, the Director of OCAP, Enrique A. Rosa Lopez, issued Memorandum 2-90 addressed to: Messes Secretaries of the Government and Agency Heads-Central Administration regarding: "Fourteenth Assignment of Classes to the Career Service of the Central Administration to the Salary Scales Established in Law 89 of July 12, 1979, amended, Uniform Retribution Act."

10. On July 22, 1991, the Director of OCAP, Enrique A. Rosa Lopez, issued Memorandum 3-91 addressed to : Messrs. Secretaries of the Government and Agency Heads-Central Administration regarding: "Fifteenth Assignment of Classes

to the Career Service of the Central Administration, to the Salary Scales Established in Law no. 89 of July 12, 1979, amended, Uniform Retribution Act."

11. On **April 1, 1991, the minimum salary increased to \$3.70 hr.** equivalent to \$602.00 per month for a scheduled of 37.5 hours a week. When said Federal Minimum Salary entered into effect, the minimum salary was adjusted to every employee who earned a lower salary. The salaries of the employees assigned to the first 13 scales of the Retribution Plan were adjusted to the same salary received by the janitor and the worker.

12. Through Administrative Bulletin Number OE-1991-47, there was authorized the conversion of the Department of Social Services (today Family Department) into an individual administrator, pursuant to the extinct Law No. 5 of October 14, 1975, as amended, "Service Personnel Act of Puerto Rico", even though it continued to be governed by the Classification and Retribution Plans and of the Central Administration.

13. On **April 1, 1992 the minimum salary increased to \$3.90 hr.,** equivalent to \$634.00 per month for a work schedule of 37.5 hours a week. When said Federal minimum salary entered into effect, the minimum salary was

adjusted to every employee who earned a lower salary. The salaries of the employees assigned to the first 15 scales of the Retribution Plan was adjusted to the same salary received by the janitor and the worker.

14. On **April 1, 1993 the minimum salary rose to \$4.05 hr.**, equivalent to \$659.00 for a work schedule of 37.5 hours per week. When said Federal minimum salary entered into effect, the minimum salary was adjusted to every employee who earned a lower salary. The salaries of the employees assigned to the first 16 scales of the Retribution Plan was adjusted to the same salary received by the janitor and the worker.

15. On July 1, 1993, the Director of OCAP, Oscar L. Ramos Meléndez, issued Special Memorandum No. 26-93 addressed to: Messrs. Secretaries of Government, Agency Heads, Directors of Public Corporations, Mayors and Presidents of the Municipal Assemblies- Personnel System and Agencies Excluded from the Public Service Personnel Act regarding: "Preparation of Classification and Retribution Plans, Personnel Regulation and Other Instruments for the Administration of Human Resources in the Public Service."

16. On **April 1, 1994 the minimum salary increased to \$4.25 hr.** equivalent to \$691.00 per month for a work schedule of 37.5 hours per week. When said Federal minimum salary entered into effect, the minimum salary was adjusted to every employee who earned a lower salary. The salaries of the employees assigned to the first 17 scales of the Retribution Plan was adjusted to the same salary received by the janitor and the worker.

17. On June 3, 1994, the Director of OCAP, Mr. Oscar L. Ramos Meléndez, issued Memorandum No. 5-94 addressed to the Messrs. Secretaries of the Individual Administrators of Agencies of the Personnel System regarding: Assignment of the Classes of Positions to the Retribution Scales Effective at the Commencement of each Fiscal Year; Actualization of the Retribution structures; Federal Minimum Salary.”

18. The Classification Plans of Positions and Retribution for the Career Service of the Family Department were adopted in June 1996 effective on March 1, 1996. The basic salary of the first scale was \$780.00 per month for a work schedule of 37.5 hrs. a week. The Federal minimum salary in effect on the date of the implementation was \$691.00 a month for a work schedule of 37.5 hrs. per week.

19. After the implementation of the Classification and Retribution Plan effective on March 1, 1996, the Family Department did not develop new Classification Plans of the Positions of the Career Service, nor the Retribution Plans.

20. The Retribution Plan adopted on March 1, 1995, established 23 scales and 8 types of salary retribution to cover 311 classes of positions. This plan was elaborated by the Department, with the collaboration and final approval of the Central Office of Personnel Administration (OCAP in Spanish) and the basic salary of the plan is \$780.00 per month for a work schedule of 37.5 hrs. per week.

21. Prior to the implementation of the Classification and Retribution Plans in June of 1996, the first 17 salary scales were below the minimum salary, which received the same minimum salary as the janitor and the worker.

22. Effective on October 1, 1996 the Federal minimum wage increased to \$4.75 per hour, equivalent to \$772.00 per month for a work schedule of 37.5 hours and \$823.00 per month for a work schedule of 40 hrs.

23. The Family Department has maintained without change up to the present the Retribution Plan that it adopted in 1996, even though the minimum salary was again increased.

24. On **September 1, 1997 the minimum salary increased to \$5.25 per hr.** equivalent to \$637.00 a month for a work schedule of 37.5 hours a week. When said Federal minimum salary entered into effect, the minimum salary was adjusted to every employee that earned a lower salary. The salaries of the employees assigned to Scales 1 and 2 of the Retribution Plan of 1996 were adjusted to the same salary received by the janitor and worker.

25. On **Sept. 1, 2000, every employee of the public sector had their minimum salary increased to \$5.80 hr.,** equivalent to \$943.00 per month for a work schedule of 37.5 hours a week, and \$1,005.00 per month for a work schedule of 40 hrs. a week pursuant to the provisions of Law No. 320 of September 2, 2000. When said Federal minimum salary entered into effect, the minimum salary was adjusted to every employee that earned a lower salary. The salaries of the employees assigned to the first 5 scales of the Retribution Plan of 1996 was adjusted to the same salary received by the janitor and the worker.

26. On **July 24, 2007 the minimum salary increased to \$5.85 hr.** equivalent to \$951.00 per month for a work schedule of 37.5 hrs. a week. When said Federal minimum salary entered into effect, the minimum salary was adjusted

to every employee that earned a lower salary. The salaries of the employees assigned to the first 5 scales of the Retribution Plan of 1996 was adjusted to the same salary received by the janitor and the worker.

27. On **July 24, 2008 the minimum salary increased to \$6.55 hr.** equivalent to \$1,064.00 per month for a work schedule of 37.5 hrs. a week. When said Federal minimum salary entered into effect, the minimum salary was adjusted to every employee that earned a lower salary. The salaries of the employees assigned to the first 7 scales of the Retribution Plan of 1996 was adjusted to the same salary received by the janitor and the worker.

28. The basic salary of each salary scale in the Retribution Plan of 1996 has prevailed unaltered since 1996 to the present.

PART II. STIPULATIONS OF FACTS AS TO WHICH THERE IS NO CONTROVERSY-ADMINISTRATION OF JUVENILE INSTITUTIONS

29. The Administration of Juvenile Institutions, before becoming an individual administrator, effective on August 5, 1988, was an integral part of and was assigned to the Department of Social Services, today the Family Department, as Assistant Secretary of the Social Treatment Services.

30. The Administration of Juvenile Institutions was created pursuant to Law No. 154 of August 5, 1988, as amended, known as the "Organic Act of the Administration of Juvenile Institutions". The same was constituted as an Individual Administrator, for purposes of Law 5 of October 14, 1975, as amended.

31. On the date the minimum salary entered into application, that is, on April 15, 1986 and until February of 1994, the Administration of Juvenile Institutions was governed by the same Plan of Classification of Positions and Retribution that governed the Social Services Department, today the Family Department, understand this as a Plan administered by OCAP. The salary adjustments for the Implementation of the Minimum Salary in the Administration of Juvenile Institutions were made in the same manner as in the Family Department, as described in calques 5, 8, 11, 13 and 14.

32. The Administration of Juvenile Institutions adopted its first Classification and Retribution Plan effective on March 1, 1994. Said Plan was developed based on 21 scales and a basic salary of \$691.00 per month for a schedule of 37.5 hours a week and \$737.00 a month for a schedule of 40 hrs. a week.

33. The Retribution Plan of the Administration of Juvenile Institutions complied with the minimum salary between April 1, 1994 until September 30, 1996.

34. **The minimum salary again increased on October 1, 1996 to \$4.75 hr.** which is equivalent to \$772.00 per month for a schedule of 37.5 hours a week and \$823.00 a month for a weekly schedule of 40 hrs. When the Federal minimum wage entered into effect, the minimum salary was adjusted to every employee that earned a lower salary. The salaries of the employees assigned to the first 3 scales were adjusted to the same salary that the janitor and the worker received.

35. The **minimum salary increased on September 1, 1997 to \$5.15 per hour**, equivalent to \$837.00 per month for a work schedule of 37.5 hours a week and \$893.00 a month for a work schedule of 40 hrs. When the Federal minimum wage entered into effect, the minimum salary was adjusted to every employee that earned a lower salary. The salaries of the employees assigned to the first 5 scales were adjusted to the same salary that the janitor and the worker received.

36. The Administration of Juvenile Institutions adopted another new Classification and Retribution Plan effective on June 1, 1999 with 22 numbers of salary scales developed based on a basic salary of \$925.00 a month for 37.5 hrs and \$986.00 a month for a schedule of 40 hrs. a week.

37. On **September 1, 2000, the minimum salary increased to \$5.80 hr.**, equivalent to \$943.00 per month for a work schedule of 37.5 hours a week and \$1,005.00 per month for a weekly schedule of 40 hrs.

38. Law 320 of September 2, 2000 ordered the Secretary of Labor and Human Resources to establish the minimum salary to be paid to every employee in the public sector, except that of the municipal employees, in an amount equal to the Federal minimum salary or in \$5.80 per hour, whichever was higher, and to assign funds, equivalent to \$943.00 per month for a work schedule of 37.5 hrs a week and \$1,005.00 per month for a weekly schedule of 40 hrs. a week. The Secretary of Labor and Human Resources informed the agency heads that the new minimum salary for public employees is \$5.80 per hour, effective on July 1, 2001.

39. The Administration of Juvenile Institutions has not adopted a new Retribution Plan since June 1, 1999.

PART III. STIPULATIONS OF FACT ON WHICH THERE IS NO CONTROVERSY-ADMINISTRATION OF VOCATIONAL REHABILITATION.

40. The Administration of Vocational Rehabilitation was constituted as an Individual Administrator on July 28, 1995.

41. The Administration of Vocational Rehabilitation, before becoming an individual administrator, was an integral part of and was assigned to the Department of Social services (today Family Department).

42. The Administration of Vocational Rehabilitation was governed by the same Plan of Classification of Positions and Retribution Plan that governed the Social Services Department (today Family Department), understand this as the Plan administered by OCAP. The salary adjustments for the implantation of the Minimum Salary in the Administration of Vocational Rehabilitation were made in the same manner as in the Family Department, as described in 5, 6, 11, 13, 14, 16, 22, 24, 25, 26 and 27.

43. On August 1, 2004, the Administration of Vocational Rehabilitation implemented its own Plan of Positions and Compensation, Career/Union Service, Career/Managerial Service and Trust Service. The basic salary of the first scale for the managerial career service was \$1,500 and for the union career service it was \$950.00. The Federal minimum salary in effect as of the date of the implementation was \$943.00 per month.

44. As of the implantation of the Plan of 2004, the Administration of Vocational Rehabilitation has not developed new Classification Plans of Positions and of

Retribution. Nor has it made periodic revisions to the Retribution Plan.

PART IV. STIPULATED DOCUMENTARY EVIDENCE

EXHIBIT 1 [LIST OF PLAINTIFFS] As has been referenced in paragraph no. 1 of the Stipulations of Fact on Which There is No Controversy. [Nevertheless it is clarified that since Law 70 was extended to October 31, 2012, the final number of plaintiffs could vary, in order to exclude from the complaint those employees that accepted the program of resignations or motivational retirement under said law. [The list is being purified of 22 unidentified employees to dismiss without prejudice and/or remain on the list].

EXHIBIT 2 Partial summary of the relationship of classes of Positions with indication of the number and the salary scale to which they correspond as a result of the Fifteenth Assignment of Classes of the Career Service of the Central Administration, to the Salary Scales Established in Law No. 89 of July 12, 1979, amended, Uniform Retribution Act, effective as of June 1, 1991.

EXHIBIT 3 Scales of Monthly Salaries that will Govern in the Family Department as of March 1, 1996. (1 folio)

EXHIBIT 4 Second Assignment of the Classes of the Career Service of the Family Department, to the Salary Scales Established pursuant to Law 89 of July 12, 1979, Amended, Uniform Retribution Act effective July 1, 1996. (14 folios)

PART V. THE FOLLOWING DOCUMENTS ARE STIPULATED WITH REGARD TO THEIR AUTHENTICITY NOT SO WITH REGARD TO THEIR CONTENT OR RELEVANCE, NO OBJECTIONS ARE WAIVED AS PERTINENT PURSUANT TO LAW.

EXHIBIT 1 Memorandum dated November 20, 1985, issued by the Director of OCAP, Atty. Guillermo Mojica Maldonado regarding: "Salary increase to the Public Employees", addressed to then Governor of Puerto Rico, Hon. Rafael Hernandez Colón.

EXHIBIT 2 Memorandum 5-86 dated April 23, 1986, issued by the Director of OCAP, Atty. Guillermo Mojica Maldonado addressed to the Secretaries of Government; Agency Heads and Mayors-Personnel System, Re: Applicability of the Federal Minimum Salary to the Public Employees.

EXHIBIT 3 Memorandum 3-86 dated June 30, 1986 issued by the Director of OCAP, Atty. Guillermo Mojica Maldonado addressed to: Secretaries of Government and Agency Heads-Central Administration. Re: "Tenth Assignment of classes of Career Service of the Central Administration to the Salary Scales Established in Law 89 of July 12, 1979, amended, Uniform Retribution Act."

EXHIBIT 4 Memorandum 2-90 dated June 30, 1990, issued by the Director of OCAP, Enrique A. Rosa Lopez, addressed to: Secretaries of Government and Agency Heads-Central Administration regarding: "Fourteenth Assignment of Classes to the Career Service of the Central Administration to the Salary Scales Established in Law 89 of July 12, 1979, amended, Uniform Retribution Act."

EXHIBIT 5 Memorandum 3-91 dated July 22, 1991 issued by the Director of OCAP, Enrique A. Rosa Lopez, addressed to: Messrs. Secretaries of Government and Agency Heads - Central Administration regarding: "Fifteenth Assignment of Classes to the Career Service of the Central Administration, to the Salary Scales Established in Law No. 89 of July 12, 1979, amended, Uniform Retribution Act."

EXHIBIT 6 Special Memorandum 26-93 dated July 1, 1993, issued by the Director of OCAP, Oscar L. Ramos Meléndez, addressed to: Messrs. Secretaries of Government, Agency Heads, Directors of Public Corporations, Mayors and Presidents of the Municipal Assemblies - Personnel System and Agencies Excluded

from the Public Service Personnel Act regarding: "Preparation of Classification and Retribution Plans, Personnel Regulations and Other Instruments for the Administration of Human Resources in the Public Service."

EXHIBIT 7 Memorandum 5-94 dated June 3, 1994, issued by the Director of OCAP, Mr. Oscar L. Ramos Meléndez, addressed to the Messrs. Agency Heads Individual Administrators of the Personnel System regarding: "Assignment of the Classes of Positions to the Retribution Scales Effective at the Commencement of Each Fiscal Year; Updating of the Retribution Structures; Federal Minimum Wage.

EXHIBIT 8 Memorandum 8-97 dated June 9, 1997 issued by the Director of OCAP, Atty. Aura L. González Ríos, addressed to Head of the Individual Administrators of the Personnel System regarding: "Amendments to the Classification Guide of Functions and to the Payment Scales of the Regulation for the Employment of Irregular Personnel."

EXHIBIT 9 Specifications for Janitor I - Plan of Classification and Retribution of the Family Department implemented on March 1, 1996.

EXHIBIT 10 Specifications for Janitor II - Plan of Classification and Retribution of the Family Department implemented on March 1, 1996.

EXHIBIT 11 Specifications for Social service Assistants - Plan of Classification and Retribution of the Central Office of Administration (OCAP).

EXHIBIT 12 Specifications for Service Assistants - Plan of Classification and Retribution of the Family Department implemented on March 1, 1996.

EXHIBIT 13 Specifications for Fiscal Assistant II - Plan of Classification and Retribution of the Family Department implemented on March 1, 1996.

EXHIBIT 14 Specifications for Office Clerk IV - Plan of Classification and

Retribution of the Office of Personnel Administration (OCAP).

EXHIBIT 15 Specifications for Family Service Technician I- Plan of Classification and Retribution of the Family Department implemented on March 1, 1996.

EXHIBIT 16 Family Department- List of Assignment of Classes of Positions to the Salary Scales - Career Service of 1996 (7 pages).

EXHIBIT 17 Uniform Retribution Regulation, Law 89 of June 12, 1979 (Amended).

EXHIBIT 18 Amended Judgment Case of Nilda A. Agosto Maldonado et al v. Commonwealth of Puerto Rico, Family Department, et al KPE2005-0608.

EXHIBIT 19 Complaint of Carmen Socorro Cruz Hernandez et al v. Commonwealth of Puerto Rico, et al, KAC1991-0665.

EXHIBIT 20 Amended Judgment Carmen Socorro Cruz Hernandez et al v. Commonwealth of Puerto Rico, et al, KAC1991-0665.

PART VI. DOCUMENTARY EVIDENCE

Plaintiff

EXHIBIT 1 a. General Information regarding Development, Implantation and Administration of the Classification and Retribution Plans of the Career Service of the Administration of Juvenile Institutions. b. First Assignment of Classes of Positions Comprised within the Classification Plan adopted for the Career Service of the AIJ pursuant to Section 4.2 of Law 5 of October 14, 1975, as amended, Public Service Personnel Act, effective on March 1, 1994. c. Grouping of Classes by Salary Scales.

EXHIBIT 2 Second Assignment of Classes of Positions comprised within the

Classification Plan adopted for the Career Service of the AIJ effective on June 1, 1999 and Standards established to Implement the Increase of the Retribution Plan for the Career service for the AIJ dated December 28, 1998.

EXHIBIT 3 Salary Scales adopted by the AIJ of 37.5 hours and 40 hours for the Career Service to be effective on the following dates:

- a. October 1, 1996;
- b. September 1, 1997;
- c. July 1, 2001 (correct date should be September 1, 2000);
- d. July 24, 2007;
- e. July 24, 2008.

EXHIBIT 4 Twelfth Assignment of Classes of Positions comprised within the Classification Plan adopted for the Career Service of the AIJ effective August 16, 2008.

EXHIBIT 5 Specifications for Janitor I - Classification and Retribution Plan of the Central Office of Administration (OCAP).

EXHIBIT 6 Specifications for Worker I- Classification and Retribution Plan of the Family Department implemented on March 1, 1996.

EXHIBIT 7 Specifications For Worker IV - Classification and Retribution Plan of the Family Department implemented on March 1, 1996.

We reserve the right to present any other documentary evidence.

Defendant

It has not been identified to this moment, nevertheless we reserve the right to present documentary evidence.

CONTROVERSIES OF LAW TO BE ADJUDICATED:

PLAINTIFF

- 1.** To determine if the defendant violated Arts. 2 and 9 and Sec. 4 of the Uniform Retribution Regulation of 1984 and concealed and/or distorted to the plaintiffs the rights that they had in order to not pay them the salary which by law corresponded to them, based on the standards of retribution and the applicable status for the same and pursuant to the hierarchy and complexity of their positions, under an updated system of scales.
- 2.** To determine if as a matter of law there applies to the present case what was resolved in SANTIAGO DECLET V. FAMILY DEPARTMENT, 153 D.P.R. 208 (2001), in view of the fact that in the cases of Juan Pérez Colón et al v. DTOP, Civil No. KAC-90-487(905) and Carmen Socorro Cruz Hernandez vs. Family Department, KAC-91-0665, Nilda Agosto Maldonado et al v. CWPR, CIVIL NO. KPE 2005 0698 (907), employees similarly situated to the plaintiffs successfully impugned the Retribution Plan of the Central Administration and defendant agencies, for having been inoperative and if it is pertinent to assign the positions of the plaintiffs herein to the new retribution plans adopted in February 2005, when the same became extensive, in the same terms, to all of the employees situated in the same situation as those that prevailed in their impugnation. Furthermore, because the text of the Uniform Retribution Act itself establishes the ministerial obligation to maintain updated the salary structure of the Central Administration and individual administrators, to enforce the principle of equal pay for equal work.
- 3.** To determine if the defendants violated the constitutional guarantees of due process of law when, unilaterally and without prior notification, in violation of the Uniform Retribution Act and its Regulation they implemented Adjustment Memorandum 5-86 illegally affecting and violating the existing employment contract between the parties.

4. To determine, under the same operational facts, if the defendant obtained an unjust enrichment by refusing to use the least onerous alternative provided under Law 5 of November 20, 1975 of reduction of the daily work schedule and which it had available to comply with the minimum salary and if there was incurred any violation to the previous ones, to determine the amount of the salaries illegally retained from each plaintiff.

5. To determine if the previous controversies are res judicata, in light of what was resolved in the case of Carmen Socorro Cruz, supra, and the nullification of the directive issued by OCAP in General Memorandum 5-86 of April 23, 1986 for the implementation of the minimum salary, since the same are in open contravention to the Law and the regulations of uniform retribution.

6. To determine if the defendant violated the different special statues related to the general increases granted to the plaintiff employees and/or impaired the same, by making salary adjustments in contravention to the express provisions of the laws that confer said general increases and where it is established that the same constitute separate and independent bonuses of the salary scales and if the response is affirmative, to determine the amount of the salaries illegally retained.

DEFENDANT:

1. If pursuant to the Uniform Retribution Act there existed or not a ministerial duty of the State, or in its defect the individual administrators, to periodically amend their retribution scales to conform them to the increases in the Federal minimum salary that was made extensive to the public sector; and if it is pertinent to retroactively implement some new retribution plans allowing a claim for the retroactive and unlimited collection of the salaries so determined.

2. If pursuant to the Uniform Retribution Act there is established a specific period for the approval of the retribution plans, or if it is required that new plans or amendments to the same be approved every certain amount of time.

3. If pursuant to the Uniform Retribution Act discretion was granted to the individual administrators to approve the retribution plans, pursuant to the fiscal situation of the agency.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, October 8, 2013.

s/ illegible

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